



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

██████████
████████████████████
██████████ MI ██████████

Date Mailed: March 28, 2022
MOAHR Docket No.: 22-000080
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on March 2, 2022. Petitioner was represented by his authorized hearing representative ██████████ ██████ Chief Investigator for the Ingham County Medical Examiner's Office. The Department was represented by Kristina Warner.

ISSUE

Did the Department of Health and Human Services (Department) properly deny the application for State Emergency Relief (SER) assistance?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████ ██████ ██████ the Department received Petitioner's application for State Emergency Relief (SER) assistance requesting assistance with burial/cremation expenses. Exhibit A, pp 6-16.
2. The December 15, 2021, application form was signed by Petitioner's authorized representative, ██████████ ██████ designee of the Ingham County Medical Examiner. Exhibit A, p 13.
3. On December 15, 2021, the Department sent Petitioner's authorized representative a SER Verification Checklist (DHS-3503-SER) requesting verification of Petitioner's cash assets. Exhibit A, p 19.

4. The December 15, 2021, request for verification of assets was addressed to Sparrow/Medical Examiner Desig, [REDACTED], MI [REDACTED] Exhibit A, p 19.
5. On January 3, 2022, the Department notified Petitioner's authorized representative that the State Emergency Relief (SER) application had been denied for failure to provide verification of cash assets. Exhibit A, p 22.
6. On [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the denial of State Emergency Relief (SER) assistance. Exhibit A, pp 3-5.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1 *et seq.* The Department administers the SER program pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and Mich Admin Code, R 400.7000 through R 400.7049.

For unclaimed bodies, a county medical examiner is a person who may apply for SER burial benefits. Department of Health and Human Services Emergency Relief Manual (ERM) 306 (October 1, 2021), pp 1-2.

SER applicants have the right to request a hearing regarding any action, failure to act, or undue delay in processing by the Department. Department of Health and Human Services Emergency Relief Manual (ERM) 102 (October 1, 2020), p 2.

On December 15, 2021, Petitioner's representative filed an application for SER assistance as the designee of the Ingham County Medical Examiner. Since the representative is a person authorized to file an application for SER assistance, the representative is a person authorized to act as Authorized Hearing Representative (AHR) on behalf of Petitioner.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2021), p 9.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The

Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (January 1, 2021), pp 1-10.

The Department will deny SER if applicants refuse to take action or provide information within their ability or withdraw the application. ERM 102, p 1.

On December 15, 2021, the Department requested that Petitioner's representative provide verification of Petitioner's cash assets. Since Petitioner had an active benefits case, the Department was aware that Petitioner had potential resources that he would be required to apply towards burial/cremation expenses as a condition of receiving SER assistance. This request for information was address to Sparrow/Medical Examiner Desig, [REDACTED] MI [REDACTED]. When the requested information was not received by the Department in a timely manner, the Department denied the [REDACTED] application.

Petitioner's representative credibly testified that she did not receive the verification checklist.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

The verification checklist was mailed to Sparrow/Medical Examiner Desig, without listing the name of the authorized representative in the address. The hearing record supports a finding that the December 15, 2021, verification checklist did not reach the authorized representative and Petitioner's representative has rebutted the presumption that the verification was received. Since the representative did not receive the verification checklist, there was no refusal to take action or provide information, and the Department improperly denied the [REDACTED] application.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied the [REDACTED] application for State Emergency Relief (SER) assistance.

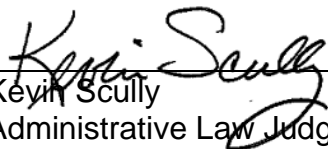
DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-register the [REDACTED] application for State Emergency Relief (SER) assistance and Initiate a determination of the Petitioner's eligibility for burial assistance.
2. Re-issue the December 15, 2021, SER Verification Checklist (DHS-3503-SER) to allow Petitioner's representative an opportunity to provide the required information as directed by Department policy.
3. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
4. Issue the Petitioner any retroactive benefits he may be eligible to receive, if any.

KS/nr



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Tamara Little
301 E. Louis Glick Hwy.
Jackson, MI 49201

Jackson County DHHS- via electronic mail

BSC4- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

Petitioner

██████████ - via first class mail

██████████

██████████, MI ██████████

Authorized Hearing Rep.

██████████ - via first class mail

██████████

██████████, MI ██████████